

Remarks/Arguments

Claims 1-17, 20, and 23-28 are pending in the application.

In the Office Action mailed May 8, 2007, claims 1, 2, 4 – 8, 20, and 23 – 28 were rejected under 35 U.S.C 102(b) as being anticipated by U.S. Patent No. 5,615,838 to Eckstein et al. (hereinafter referred to as “Eckstein”). In addition, claims 9 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Eckstein in view of U.S. Patent No. 4,226,368 to Hunter (hereinafter referred to as “Hunter”), claims 12 – 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Eckstein, and claims 15 – 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Eckstein in view of U.S. Patent No. 4,909,441 to Christy (hereinafter referred to as “Christy”). It was indicated that Claims 3 and 10 would be allowable if rewritten in independent to include the features of the base claim and any intervening claims.

In an Interview conducted with Applicant’s representatives conducted on July 6, 2007 (hereinafter referred to as “the July 6, 2007 interview”), it was indicated by the Examiner that the positive recitation in all independent claims of an emitter having a cross section in full contact with an entire inner circumference of the pipe, wherein all fluid flowing through the pipe has to flow through the emitter, would render all claims in the application allowable over the cited art of record. This indication is noted with appreciation.

By this Response, claims 1 and 23 – 25 are amended in a manner agreed upon in the July 6, 2007 interview, and all rejections of the claims, as amended, are traversed. It is respectfully submitted that no new matter has been introduced into this application by the above amendments. As discussed in the July 6, 2007 interview, support for these amendments may be found in original figures 2 – 5, and page 5 of the specification as originally filed, which recites in part that

the “plug emitter 12 has...a flow restricting path 30...The emitter 12 entirely closes the cross-section of the pipe so that water can flow through the pipe only by way of the flow restricting path 30.”

REJECTIONS UNDER 35 U.S.C. 102(b) AND 103(a)

The Examiner rejected claims 1, 2, 4 – 8, 20, and 23 – 28 under 35 U.S.C 102(b) as being anticipated by Eckstein; rejected claims 9 and 11 under 35 U.S.C. 103(a) as being unpatentable over Eckstein in view of Hunter; rejected claims 12 – 14 under 35 U.S.C. 103(a) as being unpatentable over Eckstein; and rejected claims 15 – 17 under 35 U.S.C. 103(a) as being unpatentable over Eckstein in view of Christy

RESPONSE

For a reference to anticipate an invention, all of the elements of that invention must be present in the reference. The test for anticipation under section 102 is whether each and every element as set forth in the Claim is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131. The identical invention must be shown in as complete detail as is contained in the Claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP §2131.

Further, to establish a *prima facie* case of obviousness, the Examiner must establish: (1) that some suggestion or motivation to modify the references exists; (2) a reasonable expectation of success; and (3) that the prior art references teach or suggest all of the claim limitations. *Amgen, Inc. v. Chugai Pharm. Co.*, 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970).

By this Response and Amendment, Applicant respectfully traverses the Examiner's rejection since the cited prior art does not disclose, teach or suggest all of the features of independent Claims 1, 23, 24, or 25 as amended, and thus of all other claims pending in the application and dependent therefrom.

Applicant has amended claims 1 and 23 – 25 in a manner agreed upon in the July 6, 2007 interview, including positive recitation that "all fluid flowing through the pipe has to flow through the emitter."

While Applicant's representatives and the Examiner discussed amendments reciting a drip emitter "having a cross section that *encompasses* the entire inner circumference of the pipe," (emphasis added), Applicant has taken the position that such an amendment could unintentionally limit claim scope to only emitters whose cross section is *larger* than the pipe's inner circumference. Such a limitation is unnecessary, and does not correspond with the embodiments of figures 2 – 5, *inter alia*.

To avoid this unnecessary limitation, Applicant's instead propose the above language, in which the emitter's "circumferential extremity is *in full contact with* an inner circumference of the pipe."

As discussed in the July 6, 2007 interview, none of Eckstein, Hunter, or Christy, taken alone or in combination, discloses, teaches, or suggests pipes and emitters in which "all fluid flowing through the pipe has to flow through the emitter" and in which the emitter's "circumferential extremity is in full contact with an inner circumference of the pipe," as now recited in amended claims 1, 23, 24, and 25. Accordingly, these references do not anticipate or render obvious these claims, nor all other pending claims dependent therefrom.

Withdrawal of all outstanding rejections is requested.

ALLOWABLE SUBJECT MATTER

Applicant acknowledges with appreciation the Examiner's indication that claims 3 and 10 would be allowable if rewritten in independent form.

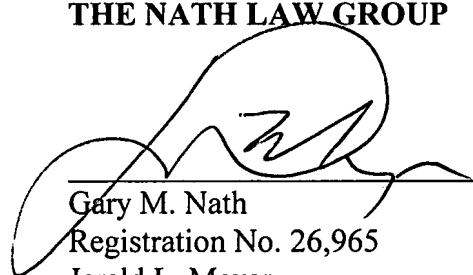
Both of the above claims depend directly or indirectly from claim 1, which applicant submits is now in condition for allowance. Accordingly, Applicant requests that the Examiner withdraw all objections to claims 3 and 10.

CONCLUSION

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

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Respectfully submitted,
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